



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/643,247	08/15/2003	Etienne Douw Visser	JG0737US (#90578)	3591

7590 10/20/2005

D Peter Hochberg Co., L.P.A.  
1940 East 6th Street  
Cleveland, OH 44114-2294

EXAMINER
----------

A, PHI DIEU TRAN

ART UNIT	PAPER NUMBER
----------	--------------

3637

DATE MAILED: 10/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/643,247

Applicant(s)

VISSER, ETIENNE DOUW

Examiner

Phi D. A

Art Unit

3637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

W

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

2. Claims 1-7, 9-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Thallemer (5743049).

Thallemer discloses a structure comprising at least three structural units, each of said at least three units consisting of three inflatable legs (8) constituting two support legs and an apical leg, each leg having a free end and an inner end, the inner ends of the three legs being joined at a center point, the legs being arranged to define a tetrahedron with the three legs lying on three adjacent edges of the tetrahedron and with adjacent pairs of legs lying in planes of three sides of the tetrahedron, the free ends of the legs defining the fourth side of the tetrahedron, the apical legs of the units are joined to corresponding legs of the other units at a join position (figure 1, per means 34, 49), the three legs of each unit are of the same length (figure 1), two of the legs of the same length and the third leg is of a different length (figure 1, middle structure), the legs are straight, each leg comprises a plastic reinforced by a woven fabric (col 7 lines 51-55), the warp of the fabric is aligned with the tube axis, a connector unit is provided at the free end of at least one of the legs of each element, some of the apical legs are connected to other legs through an intermediate beam, the outer ends of the legs are shaped complementary to permit

Art Unit: 3637

interconnection of the structural elements along the axial angle of the completed structure (inherently so).

3. Claims 1-2, 4, 8 are rejected under 35 U.S.C. 102(a) as being anticipated by Leary (6061969).

Leary discloses a structure comprising at least three structural units, each of said at least three units consisting of three inflatable legs (18) constituting two support legs and an apical leg, each leg having a free end and an inner end, the inner ends of the three legs being joined at a center point, the legs being arranged to define a tetrahedron with the three legs lying on three adjacent edges of the tetrahedron and with adjacent pairs of legs lying in planes of three sides of the tetrahedron, the free ends of the legs defining the fourth side of the tetrahedron, the apical legs of the units are joined to corresponding legs of the other units at a join position (figure 1, per welding), the three legs of each unit are of the same length (figure 1), the legs are straight, a connector unit is provided at the free end of at least one of the legs of each element, the apical legs are all joined directly together.

#### ***Response to Arguments***

4. Applicant's arguments filed 7/29/05 have been fully considered but they are not persuasive.

With respect to applicant's arguments that Thallemer does not show two support legs and an apical leg, examiner respectfully disagrees. The two support legs and apical leg support the structure and meet the claimed structural limitations.

With respect to the legs not defining a tetrahedron (polyhedron formed of four planes), examiner respectfully disagrees. First of all, there is no structural configuration for the

Art Unit: 3637

tetrahedron being claimed. Secondly, there is no prohibition of the legs from lying on three adjacent edges of a tetrahedron. Thirdly, structure disclosed by Thallemer meets all the claimed structural limitations. The argument is thus moot.

With respect to “the legs being connected to form a geodesic dome”, the argument is moot as it is not claimed.

With respect to applicant’s argument that Thallemer’s legs are not at “ a join position”, examiner respectfully disagrees. As pointed out in the rejection above, the legs are joined at a join position by means (34, 49). The fact that a plate exists between them, does not prevent the legs from a “ join position”. The fact the legs are spaced apart from each other each by an intervening structure, does not prevent the legs from being joined as the intervening structure functions to provide the connection therebetween. The claim does not require that the legs directly join to each other without any other structure therebetween. The argument is thus moot.

With respect to applicant’s description of the structural element (34 and 49) of Thallemer, the argument is moot as the structural elements meet the claimed structural limitations.

5. With respect to applicant’s argument that applicant’s invention provides for a geodesic structure while Thallemer providing only for a vertical supporting structure, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

With respect to applicant’s comparison of the functions of Thallemer’s structure to applicant’s invention, the argument is moot as Thallemer meets all the claimed structural limitations. The argument is thus moot.

Art Unit: 3637

With respect to the different length of the legs, examiner respectfully points out that the third leg as shown by the middle structure of figure 1 is clearly different from others.

Applicant's statement that legs are the same length other than the different views is moot, the structure clearly shows the legs being the same, and not due to the different views. The argument is thus moot.

With respect to "the warp of the fabric being aligned with the tube axis", examiner respectfully points out that no designation of tube axis is defined yet. Is applicant referring to the perpendicular, longitudinal, transverse, 45 degree, and oblique axis? Thallemer's structure certainly meets the limitations as claimed. the argument is thus moot.

With respect to "no connector unit at the free end of any...elements", examiner respectfully points out that the reference shows connectors at the free ends of the members; in figure 8, there is shown connectors (64, 75). The argument is thus moot.

With respect to applicant's reference to "a beam" Thallemer shows "a beam" as claimed. The beam in Thallemer is the structure, which connects the apical legs together. The argument is thus moot.

With respect to "inflatable beam", the limitation "inflatable" is not claimed. The argument is thus moot.

With respect to applicant's arguments that Leary does not show the structural units comprising three legs, examiner respectfully disagrees. The reference show legs (18) spot welded at 16 and 20. The legs meet the limitations as claimed. The structural units comprising three legs (18). The argument is thus moot.

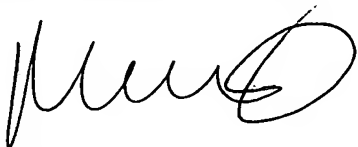
Art Unit: 3637

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phi D A whose telephone number is 571-272-6864. The examiner can normally be reached on Monday-Tuesday, Thursday and Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 571-272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Phi Dieu Tran A

10/17/05